

FORM SUMMARY

Name of Form: Request and Order to Correct Clerical Error in Judgment of Conviction

Form Number: CR-245

Statutory Reference: *State v. Prihoda*, 2000 Wis 123, 618 NW 2d 857 (2000)

Purpose of Form: To allow the Court to direct the Clerk of Court to correct an error on a criminal judgment of conviction

Who Completes It: Clerk of Court

Distribution of Form: Original to judge for consideration to sign or schedule for hearing, with copies to the parties

Accompanying Forms:

New Form/Modification: New form.

Modifications: Not applicable.

Comments: The Supreme Court of Wisconsin in *State v. Prihoda*, 2000 Wis. 123, 618 NW 2d 857 (2000), determined that the clerk of circuit court did not have the inherent authority to correct a clerical error in sentence portion of written judgment of conviction. The Court determined that the judge, not the clerk's office was required to determine the merits of a request for change in sentence portion of written judgment of conviction due to alleged clerical error. The court further determined that the judge had the discretion to determine whether the defendant was entitled to notice and a hearing before a correction was made.

This form allows the clerk to bring the fact of a clerical error to the attention of the judge so that a decision can be made whether the clerk can make the change automatically and without a hearing (but with notice of the change to the parties) or whether to schedule a hearing with prior notice to all parties.

Most errors are open and obvious mistakes that can be confirmed merely by looking at the minutes or a review of the court reporter's notes; these probably do not need a hearing in advance of the change. The Court stated that where the court's orally rendered sentence was "unambiguous," a hearing was not required. Errors that are not open and obvious will probably require a hearing with prior notice to the parties.

About this form: This form is the product of the Wisconsin Records Management Committee, a committee of the Director of State Court's Office and a mandate of the Wisconsin Judicial Conference.

If you have additional information that does not change the meaning of the form, attach it on a separate page. The form itself shall not be altered.

Date: 04/28/03